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FISH & RICHARDSON PC
P.O. BOX 1022
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In re Application of :
Murphy : DECISION ON APPLICATION
Application No. 09/925,824 : FOR PATENT TERM ADJUSTMENT
Filed: August 9, 2001 :
Atty. Dkt. No.: 15132-292001/ :
MPI2000-314 :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 12, 2006. This matter is being properly treated under 37 CFR 1.705(b) as an application patent term adjustment.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(b) is hereby **GRANTED**.

Applicant requests that the Determination of Patent Term Adjustment be corrected from 280 days, as indicated on the Determination of Patent Term Adjustment mailed June 12, 2006, to an adjustment of 460 days.

A review of the application history reveals that as of the time of allowance, an adjustment of 670 days can be attributed to the Office, as argued by applicant.

In accordance with 37 CFR 1.702(a)(1) and 1.703(a)(1), an adjustment of 587 days, as undisputed by applicant, can be attributed to the Office for failure to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application was filed.

A further adjustment of 83 days can be attributed to the Office, as argued by applicant, in accordance with 37 CFR 1.702(a)(2). The adjustment began November 20, 2004, the day after the date that is four months after the date a reply to the restriction requirement was filed, and ended February 10, 2005, the date the non-final Office action was mailed. See, 37 CFR 1.703(a)(2).

The adjustment of 670 days is properly reduced 210 days, as argued by applicants.

The reductions of 77 days, 36 days, 90 days, and seven days are undisputed by applicant.

However, applicant argues that the reduction of 97 days in connection with the reply submitted November 23, 2004 is in error. Applicant's argue that a response to the non-final Office action was timely submitted July 19, 2004, as established by the copy of a postcard date-stamped by the USPTO indicating receipt of such that is contained in the record. In view thereof, the reduction of 97 days in connection with applicant's reply to the non-final Office action has been restored.

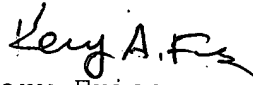
Accordingly, at the time of allowance, the application is entitled to an adjustment of 460 days, as argued by applicant.

Receipt is hereby acknowledged of the required PTA application fee of \$200.00.

Applicants are further advised that the patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

The application file is being forwarded to the Office of Patent Publications Division for issuance of a patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (703) 305-0310.


Kery Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy